REMARKS

This communication is in response to the final rejection dated October 20, 2005. In the rejection, the Examiner continues to advance an obviousness rejection using Chung and Smith. It is respectfully submitted that Chung and Smith are improperly combined and, therefore, the obviousness rejection is improper and should be withdrawn.

Rejections based on Prior Art

The Examiner continues to contend that it would be obvious to combine the disclosures of Chung and Smith. Applicant respectfully disagrees.

In the first place, while the Examiner contends that both Chung and Smith are "directed to monitoring, identifying errors in software programs," this is not, in fact, the case. Rather, Chung is directed to a method to assist in time and labor planning for debugging and testing a program, not actually debugging and testing the program. As discussed in Applicant's previous response, much of the latter part of the Chung disclosure is dedicated to describing a formula for applying the number of errors found in a subset of code to estimate the total amount of time and labor required to test and debug the entire code (taking into consideration, for example, the skill level of the developer.

To accomplish the estimate, Chung discloses "scanning" (as the Examiner recognizes, not "executing") a sample portion of the program for errors and, based on the found errors and the total size of the program, estimating the total number of errors in the program. Contrary to the Examiner's assertion (with respect to asserting that Chung and Smith are analogous art), this is not monitoring errors at all. And, to the extent it is "identifying" errors, the errors (more specifically, errors in a sample portion of the program) are identified only for the purpose of estimating the total number of errors.

Again, the Chung disclosure is directed only to estimating the total number of errors, based on the errors in a small portion of the code, for estimating the total amount of time and labor required to test and debug the code. The real work of identifying and fixing all the errors begins only where the Chung disclosure leaves off.

With respect to Smith, Applicant agrees that Smith discloses testing and debugging programs for identifying errors generated during execution. With respect to this broad aspect, Smith discloses nothing more than programmers have been doing since the beginning of programming time.

As discussed above, given that Chung is directed to estimating, for time and labor planning (with actual test and debugging to follow), one would not be motivated to modify Chung to include the "actual testing" features disclosed by Smith. Such "actual testing" is not necessary for Chung to calculate an estimate for time and labor planning.

The Examiner states that the alleged motivation for modifying Chung in view of Smith would be "to ensure the library program functions associated with the program can be called dynamically," but Chung is not concerned with ensuring anything, only with estimating time and labor for later debugging and testing a program. If the Examiner continues to reject the claims based on Chung and Smith, Applicant would appreciate the Examiner more specifically explaining his contention that one would be motivated to modify the Chung disclosure "to ensure that library program functions associated with the program can be called dynamically."

The Examiner further relies on Ruhlen in rejecting some of the claims. Contrary to the Examiner's assertion, Applicant can find nothing in Ruhlen that discloses storing modifications made in response to errors. Fig. 2 and corresponding text, cited by the Examiner, discloses compiling and storing information of failures, but there is no disclosure of storing modifications made in response to errors. Neither does the disclosure at col. 3, lines 63-37 or col. 2, lines 11-13 describe storing modifications made in response to errors.

In response to the previous office action, Applicant pointed out that Ruhlen does not disclose storing modifications made in response to errors, specifically discussing the portions of Ruhlen cited by the Examiner. In the present office action, the Examiner has merely repeated the statements regarding Ruhlen. Therefore, Applicant incorporates herein the statements previously made in refutation of the Examiner's reliance on Ruhlen.

Similarly, with regard to Leung, Applicant previously pointed out that Leung discloses a testing tool inserted into the code to be tested, so that it can be determined where errors are occurring. Applicant also pointed out that, given that this has nothing to do with Chung's disclosure of time and labor planning, it is respectfully submitted that there is no proper

motivation to modify Chung in view of Leung. Applicant also argued that, similarly, there is no proper motivation to modify Chung in view of Hanson.

With regard to Leung and Hanson, the Examiner does not appear to have addressed Applicant's arguments relative to the Examiner's previous use of these references.

With regard to motivation in general, Applicant once again incorporates the comments made in the previous response, with respect to the use of hindsight reasoning.

CONCLUSION

Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,
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